

July 17, 2009

James Oman
1113 8th Avenue N.E.
Brainerd, Minnesota 56401

Dear Mr. Oman:

Enclosed is a copy of the fully executed Stipulation & Consent Order approved by the Emergency Medical Services Regulatory Board (EMSRB) on July 16, 2009.

The Board's Stipulation and Order states in part:

1. Conditions were placed on your EMT-P certification.
2. If you are providing emergency medical services, you will have your supervisor submit quarterly reports to the Board.
3. You will not be the subject of any further disciplinary action by your employer relating to narcotics documentation, narcotics administration, patient care, or patient safety.
4. You must provide a copy of the stipulation and consent order to all persons and entities for whom you are employed and providing emergency medical services.
5. You may petition for removal of the conditions from your certification no sooner than 22 months from the date of this order.
6. Comply with any other requirements stated in the Stipulation and Consent Order.

You are encouraged to take this matter seriously and abide by the stipulation and order requirements. Failure to do so may result in further action against your certification as an EMT-P.

If you have further questions, please contact Rose Olson (651.201.2804) at your convenience.

Sincerely,



Katherine Burke Moore
Executive Director

Cc: Karen Andrews, Assistant Attorney General

Enclosure: Stipulation and Order

**BEFORE THE MINNESOTA
EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

In the Matter of the certification of
James Oman, EMT-P
Certificate Number: 509990

**STIPULATION AND
CONSENT ORDER**

STIPULATION

IT IS HEREBY STIPULATED AND AGREED, by and between James Oman, EMT-P ("Respondent") and the Complaint Review Panel ("Panel") of the Minnesota Emergency Medical Services Regulatory Board ("Board") that the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

1. During all times material herein, Respondent has been and now is subject to the jurisdiction of the Board by which he was issued a certificate as an emergency medical technician - paramedic ("EMT-P").

II.

CONFERENCE

2. On August 4, 2008, Respondent appeared before the Panel to discuss allegations contained in a Notice of Conference dated July 10, 2008. Karen Andrews, Assistant Attorney General, represented the Panel at the conference.

3. At the August 4, 2008 conference, Respondent was advised by the Panel that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation. Following the conference, Respondent retained Seymour J. Mansfield, Esq.

and J.B. Roth, Esq., Mansfield Tanick & Cohen, P.A., to represent him.

III.

FACTS

4. The parties agree, for purposes of settlement only, that this Stipulation and Consent Order is based upon the following facts. Such stipulation does not constitute an admission of such facts, or an admission of wrongdoing.

a. On March 22, 2006, Respondent was coached regarding his violation of company policy regarding disposal of morphine.

b. On July 26, 2006, the ambulance service maintains that Respondent was coached for allegedly sleeping in the patient compartment of the ambulance during a transport. Respondent denies being coached about this incident or sleeping in the ambulance.

c. On September 28, 2007, Respondent was responsible for a drug pouch that was lost during a call. The pouch should have been attached to Respondent's belt, but instead, it was placed on the cot, where it fell off while Respondent and his partner were traversing a steep hill. After Respondent realized the pouch was missing, he returned to the hill and recovered the pouch.

d. Between January and October 2007, Respondent was responsible for twelve narcotic documentation errors. On October 10, 2007, Respondent was issued a formal performance improvement warning related to his documentation of narcotics usage and waste.

e. On October 15, 2007, Respondent responded to a 911 call for a patient with severe abdominal pain. Respondent's partner reported that Respondent was sleeping in the patient compartment of the ambulance during the 62-mile transport. Respondent denies that he was sleeping in the ambulance.

f. On October 19, 2007, Respondent's employment was terminated. The ambulance service cited "repeated failure to follow established policy and misconduct deemed detrimental to [the] client's safety" as the basis for the termination.

g. During the conference with the Panel on August 4, 2008, and in his written responses, Respondent admitted he had difficulty following procedure for documenting the wasting of narcotics. He also admitted violating policy by not keeping the narcotics pouch on his person or in the lock box the day it was lost. Respondent described his work environment as "hostile" and stated his termination was related to his whistle-blowing activities. Respondent expressed remorse and displayed an understanding of the nature of his violations. Respondent told the Panel that it was unlikely similar violations would occur in the future.

IV.

LAWS

5. Although Respondent does not admit violating Minnesota Statutes section 144E.28, he acknowledges that the Board views the conduct described in section III. above to be a violation of section 144E.28, subd. 5(a)(5) and justifies the disciplinary action described in section V. below.

V.

DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. Conditions on Certification

6. The Board places the following **CONDITIONS** on Respondent's certification:

a. Respondent shall cause to be submitted to the Board quarterly reports from Respondent's supervisor, if Respondent is providing emergency medical services. Each report shall provide and address:

- 1) In the first report, verification Respondent's supervisor has received and reviewed a copy of this Stipulation and Consent Order;
- 2) The date of Respondent's employment;
- 3) The average number of hours Respondent worked each week during the reporting period;
- 4) Respondent's attendance and reliability;
- 5) Respondent's ability to carry out assigned functions, including his ability to properly administer and document administering narcotics; and
- 6) Any other information the supervisor believes would assist the Board in its ultimate review of this matter.

b. For purposes of the foregoing, the quarterly reports shall be received at the Board office within 30 days of the end of each calendar-year quarter, beginning 30 days after the end of such calendar quarter when Respondent becomes employed in a setting where he provides emergency medical services. It shall be Respondent's obligation alone to ensure that all of the reports required under this part are complete and accurate and are received at the Board office in accordance with the schedule specified.

c. Respondent shall not be the subject of any further disciplinary action by his employer relating to narcotics documentation, narcotics administration, patient care, or patient safety.

d. Not later than ten (10) days from the date of this Order, Respondent shall provide a complete, exact and true copy of the Order to all persons and entities for whom he is then employed and providing emergency medical services. Likewise, within ten (10) days from the date he may assume any other employment position providing emergency medical services, he shall provide the employer with a complete, exact and true copy of this Order.

7. If employed providing emergency medical services, Respondent shall notify each present and future supervisor of this Stipulation and Consent Order within ten days of the date of the order or commencing employment. Respondent shall provide the supervisor with a copy of the entire signed Stipulation and Consent Order.

B. Removal of Conditions

8. Respondent may petition to have the conditions removed from his certification at any regularly scheduled Board meeting following 22 months from the date of the Order, provided Respondent's petition is received by the Board at least 30 days before the Board meeting. At the time of Respondent's petition, Respondent shall have the burden of proving by a preponderance of the evidence that Respondent is capable of providing emergency medical services without conditions and has complied with the conditions above; however, Respondent's compliance with the conditions shall not create the presumption that the conditions should be removed. Upon consideration of the evidence submitted by Respondent or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this Order.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

9. It is Respondent's responsibility to ensure all reports and documentation required to be filed with the Board pursuant to this Stipulation and Consent Order are timely filed by those preparing the report or documentation. Failure to file reports and documentation on or before their due date is a violation of this Stipulation and Consent Order. The information contained in the reports and documentation is confidential and shall be submitted to the Board by United States mail, courier, or personal delivery only.

10. If Respondent fails to comply with or violates this Stipulation and Consent Order, the Panel may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Panel shall schedule a hearing before the Board. At least 30 days before the hearing, the Panel shall mail Respondent a notice of the violation(s) alleged by the Panel. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Respondent shall submit a written response to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Panel, in its discretion, may schedule a conference with Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Panel and Respondent may submit affidavits and written argument in support of their positions. At the hearing, the Panel

and Respondent may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. The Review Panel shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Respondent has failed to submit a timely response to the allegations, Respondent may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Respondent waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Respondent's correction of a violation before the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Review Panel not to seek discipline when it first learns of a violation shall not waive the Review Panel's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Respondent's certification is in a conditional status.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board shall dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on Respondent's practice, suspension, or revocation of Respondent's EMT-P certificate.

f. Nothing herein shall limit the Panel's or the Board's right to temporarily suspend Respondent's certification pursuant to Minnesota Statutes section 144E.28, subdivision 6, based on a violation of this Stipulation and Consent Order or based on conduct of Respondent not specifically referred to herein.

VII.

ADDITIONAL INFORMATION

11. In the event Respondent should leave Minnesota to reside or to practice outside of the state, Respondent shall give the Board written notification of the new location, as well as dates of departure and return. Periods of residency and practice outside of Minnesota will not apply to the reduction of any period of Respondent's conditional certification in Minnesota unless Respondent demonstrates that the practice in another state conforms completely with this Stipulation and Consent Order. If Respondent leaves the state, the terms of this Order continue to apply unless waived in writing.

12. Within ten days of execution of this Stipulation and Consent Order, Respondent shall provide the Board with the addresses and telephone numbers of Respondent's residence and all agencies or facilities and locations at which Respondent has become employed providing emergency medical services. Respondent shall inform the Board within ten days if he becomes employed at any additional agencies or facilities or moves and shall provide the new or additional address and telephone number.

13. Within ten days of execution of this Stipulation and Consent Order, Respondent shall provide the Board with the names of all states in which Respondent is authorized to provide emergency medical services or has applied for certification as an EMT-P.

14. Respondent waives the contested case hearing and all other procedures before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or rules.

15. Respondent waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the

investigation of the conduct herein, or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Respondent.

16. This Stipulation and Consent Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

17. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

18. Respondent has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Respondent is aware this Stipulation and Consent Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Consent Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Respondent, the Stipulation and Consent Order will take effect and the order as modified will be issued. If the changes are unacceptable to Respondent or the Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

19. Respondent agrees that if the Board rejects this Stipulation and Consent Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Consent Order or of any records relating to it.

20. This Stipulation and Consent Order shall not limit the Board's authority to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent which constitutes grounds for

disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VIII.

DATA PRACTICES NOTICES

21. This Stipulation and Consent Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

22. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.


CONSENT:

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD
COMPLAINT REVIEW PANEL

 EMT-P

JAMES OMAN, EMT-P
Respondent

Dated: 05/27, 2009

_____
PAUL STELTER
Board Member

Dated: 5/27, 2009

ORDER

Upon consideration of the Stipulation, the Board places Respondent's EMT-P certificate in a **CONDITIONAL** status and adopts all of the terms described above on this 16 day of

July, 2009.

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD


KATHERINE BURKE MOORE
Executive Director

AG: #2302534-v3